

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

### for July 6, 2005 PLANNING COMMISSION MEETING

**P.A.S.:** Change of Zone #05044

**PROPOSAL:** To change the zoning on approximately 2 blocks within the University Place Neighborhood from B-3 Commercial to R-4 Residential.

**LOCATION:** Generally between Cleveland and Baldwin Avenues, on the west side of 47<sup>th</sup> Street.

**LAND AREA:** 3.44 acres, more or less.

**CONCLUSION:** This proposed downzoning is the result of an adopted neighborhood plan. This application conforms to the North 48<sup>th</sup> Street/University Place Plan and the 2025 Comprehensive Plan.

**RECOMMENDATION:**

Approval

### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lots 1-3 and 10-12, Block, 47, Lots 1-3 and 10-12, Block 69, Lots 1-3 and 10-11, Block 74, and Lots 1-3, Block 88, University Place, located in the NW1/4 Section 17 T10N R7E, Lancaster County, Nebraska.

**EXISTING ZONING:** B-3 Commercial

**EXISTING LAND USE:** Single-, Two-, and Multiple-family dwellings, commercial

### **SURROUNDING LAND USE AND ZONING:**

North:	Huntington School	P Public
South:	Single, Two-, and Multiple-family dwellings	R-6 Residential
East:	Commercial	B-3 Commercial
West:	Single- and Two-family dwellings	R-4 Residential

### **HISTORY:**

*The North 48<sup>th</sup> Street/University Place Plan: A Neighborhood Revitalization and Transportation Analysis* was approved in June, 2004. This plan is an adopted subarea plan of the 2025 Comprehensive Plan, and serves as the basis for this change of zone application.

Prior to the 1979 zoning update, this area was zoned B Two-Family Dwelling, C Multiple Dwelling, D Multiple Dwelling, and I Commercial. As a result of the update, the zoning changed to R-4 Residential, R-5 Residential, R-6 Residential, and B-3 Commercial, which substantially reflected the previous zoning.

**HISTORY OF OTHER RESIDENTIAL DOWNZONING:**

- |           |  |
|-----------|--|
| Apr 2005  | Change of Zone #05021 from R-6, R-5, and R-4 to R-5, R-4, and R-2 approved for an area within the University Place neighborhood.   |
| Apr 2005  | Change of Zone #05014 from R-4, R-5, R-6, and R-7 Residential to R-2 Residential approved for an area within the Near South neighborhood.  |
| Jan 2004  | Change of Zone #3424 from R-4, R-5, and R-6 Residential to R-2 Residential was approved for an area within the Everett neighborhood.   |
| Sept 2003 | Change of Zone #3416 from R-4 Residential to R-2 Residential was approved for an area within the Witherbee neighborhood. The Planning Department suggested the issue of downzoning areas within established neighborhoods should be further studied.   |
| Aug 2003  | Change of Zone #3412 from R-4 Residential to R-2 Residential was approved for an area within the Antelope Park neighborhood.   |
| Apr 2003  | Change of Zone #3397 from R-4 Residential to R-2 residential was approved for an existing landmark district within the Near South neighborhood.  |
| Oct 2002  | Change of Zone #3378 from R-5 and R-6 Residential to R-2 Residential was approved within the existing Mount Emerald Neighborhood Landmark District. The Planning Department referred to new language in the recently adopted Comprehensive Plan on preserving the character of the existing neighborhoods. |
| Feb 2002  | Change of Zone #3354 from R-4 Residential to R-2 Residential was approved for an area within the Antelope Park neighborhood.   |
| Jun 1995  | Change of Zone #2890 from R-4 Residential to R-2 Residential was approved for a small area of the Near South neighborhood located at 27 <sup>th</sup> and Washington Streets.  |

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan shows the requested area as Urban Residential. (F 25)

**Urban Residential:** Multi-family and single-family residential areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling unit per acre. (F 27)

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. (F 15)

## **NORTH 48<sup>TH</sup> STREET/UNIVERSITY PLACE PLAN RECOMMENDATIONS:**

**Vision:** The University Place neighborhood will offer a sound residential environment for a variety of people, but will emphasize its quality and security as a place to own a home. (p 73)

- Public policy should reinforce existing, positive patterns of development, and discourage or prevent undesirable trends.
- In University place, homeowner investments should be viewed as financially secure and the level of uncertainty should be reduced.
- University place should be an increasingly attractive residential setting for NWU or UNL faculty and staff.
- The overall level of owner-occupancy in University place should increase. (pp 74-75)

### **Neighborhood Development and Land Use Recommendations**

**Outcome-Based Neighborhood Investment Strategy:** Lincoln should implement a neighborhood development strategy in University Place, with strategies designed to help bring about desirable outcomes on each blockface. (p 75)

**Focused Downzoning:** The City and neighborhood should implement a surgical rezoning strategy, based on the character and preferred occupancy outcome of each blockface. (p 79)

## **ANALYSIS:**

1. This is a request by the University Place Community Organization to change the zoning for approximately 2 blocks within the University Place neighborhood from B-3 Commercial to R-4 Residential.
2. This is a request to implement the rezoning modifications identified in the adopted North 48<sup>th</sup> Street/University Place Plan.
3. These properties were originally a part of Change of Zone #05021, approved in April, 2005. They were removed by the Applicant at the request of the nearby business association, in order that further discussions could take place. These groups have met, and this application is being presented with the support of the neighborhood and business associations and owners of these properties.
4. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.
  - **Safety from fire, flood and other dangers.**  
No apparent impact.

- **Promotion of the public health, safety, and general welfare.**

This proposal appears to fulfill policies and guidelines enumerated in the Comprehensive Plan and the North 48<sup>th</sup> Street/University Place Plan.

- **Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development.**

The housing within this proposed change of zone is a mixture of single- and multiple-family dwellings. The majority of the approximately 19 primary residential structures are single-family. There are 15 single-family dwellings, and 4 multiple-family dwellings (24 units).

The focused downzoning strategy used in the subarea plan recognized that different parts of the neighborhood have different characteristics. A strategy was developed based upon the housing configuration and occupancy characteristics of each blockface. The result was this pattern of specific zoning changes.

- **Conservation of property values.**

It is difficult to determine the effect a change of zoning will have on property values. On one hand, property values could diminish if houses could no longer be converted into duplexes, due to increased lot area requirements, or redevelopment for apartments. On the other hand, this may have the effect of encouraging home ownership, which could stabilize or increase property values. The North 48<sup>th</sup> Street/University Place Plan acknowledged these competing effects; higher density residential zoning can create uncertainties that tend to drive owner-occupants out and promote conversion of single-family houses and lots to multiple-family use, however, large-scale downzonings face opposition from existing multiple-family property owners, who face the prospect of nonconformance and even clouded titles as a result. (p 79)

- **Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.**

The Comprehensive Plan encourages efficient use of existing infrastructure and diversity of housing choices. At the same time, the Comp Plan identifies Lincoln's commitment to its neighborhoods, as well as an encouragement to preserve existing single-family homes for single-family uses. The North 48<sup>th</sup> Street/University Place Plan provides guiding principles to balance these often competing interests.

5. The most significant difference between the B-3 and R-4 districts is the commercial versus residential nature of uses. The existing B-3 district does not allow residential uses by right, meaning that if any of the existing homes were destroyed, they could not be rebuilt under B-3 zoning. A change to R-4 would allow dwellings to be rebuilt, but would prohibit commercial uses.
6. All new construction of principal buildings in residential districts are required to meet the City of Lincoln Neighborhood Design Standards. These standards are designed to recognize that certain areas of Lincoln “retain much of the traditional physical character of their original lower density development,” even though they may have experienced recent higher density development. These standards will apply to these properties if they are changed to R-4.
7. LMC §27.61.040 includes the nonconforming use regulations. In general, a nonconforming use may be continued, but not expanded or enlarged. If the use is damaged beyond 60% of its value or if the use is discontinued for two years or more; any rebuilding or new use must conform to the current zoning regulations. All 19 properties used for residential use are now nonconforming. However, if changed to R-4, these uses will become conforming.
8. LMC §27.03.460 defines nonstandard lots as those that fail to meet the minimum lot requirements for the district, such as lot area, lot width, density, setbacks, height, unobstructed open space, or parking.
9. LMC §27.61.090 provides that nonstandard uses, whether existent prior to the ordinance or due to changes in the zoning, may be enlarged, extended, or reconstructed as required by law for safety, or “if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space...”
10. The R-4 district regulations provide that “multiple family dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61 [nonconforming and nonstandard uses].” This rule allows multiple-family dwellings built prior to May 8, 1979 to be reconstructed, altered, and restored after damage by treating such uses as nonstandard rather than nonconforming.

Therefore, any of these multiple-family uses that gets changed to R-4 may be altered or rebuilt provided it predates May 8, 1979 and meets the setback and height requirements of the new zoning district. This may result in a slightly different building footprint, but there is no need under the current zoning ordinance for a variance or special permit if these requirements are met.

11. Should the owner of a nonstandard single- or two-family structure want to extend into one of the required yards, a special permit is available provided the structure does not extend further into the setback than it currently does. This special permit is available in any residential zoning district. The owner of a standard use, by comparison, would need to seek a variance from the Board of Zoning Appeals to occupy a required yard.
12. The Planning Department suggests this neighborhood has reached an appropriate mix of single-, two-, and multiple-family residences. The combined density within the blocks under consideration and the blocks recently changed is 10.7 units per acre, which compares to densities of 3.8 to 6.5 units per acre in the neighborhoods where R-2 zoning was approved under the current Comp Plan, and 7.6 units per acre in the pending Near South Neighborhood request.

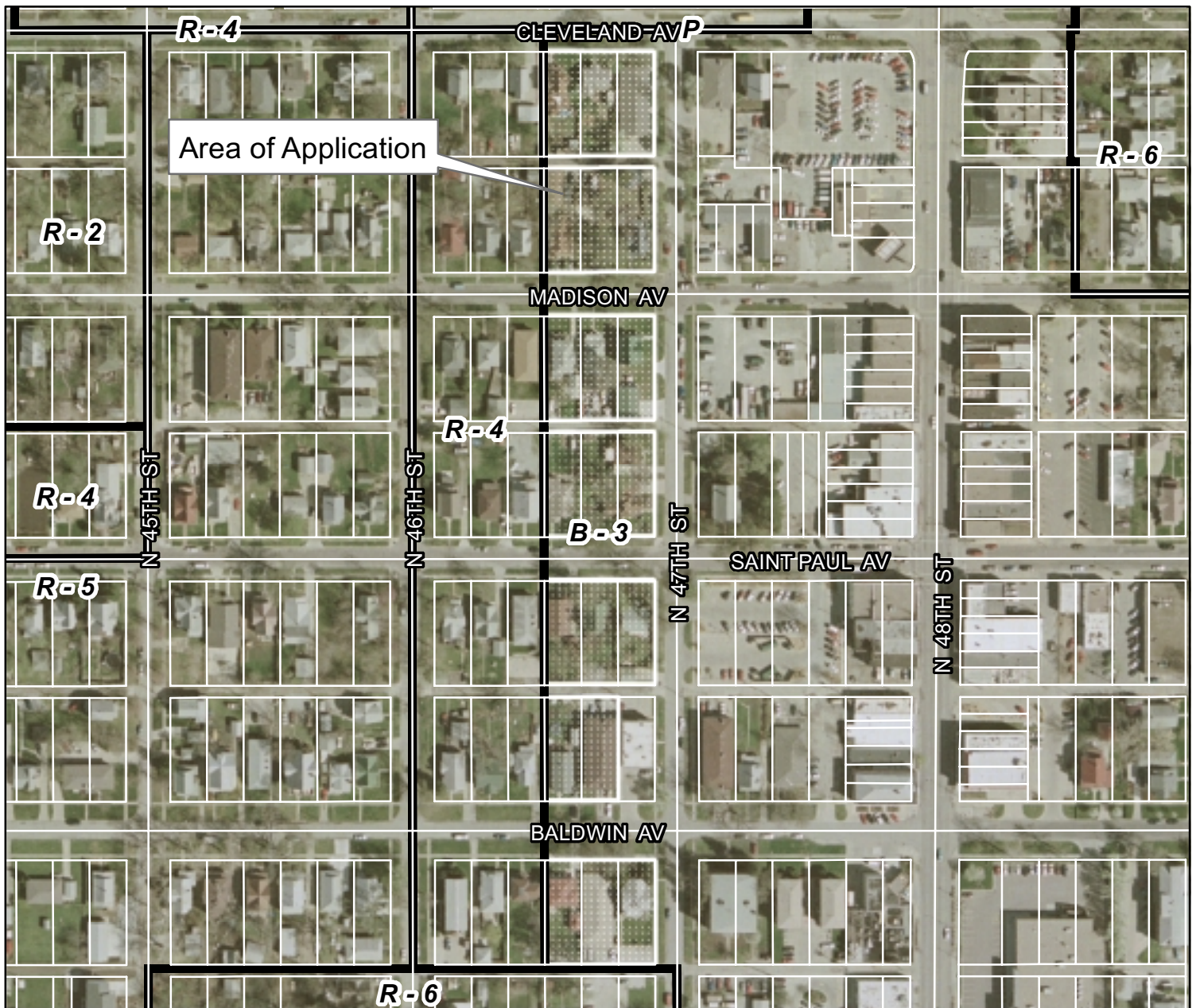
Prepared by:

Greg Czaplewski, 441-7620, [gczaplewski@lincoln.ne.gov](mailto:gczaplewski@lincoln.ne.gov)

**Date:** March 16, 2005

**Applicant:** Urban Development Department  
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**Contact:** Urban Development Department  
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441.8211



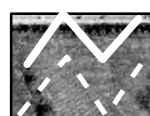
2002 aerial

## Change of Zone #05044 N. 47th & Cleveland Ave.

### Zoning:

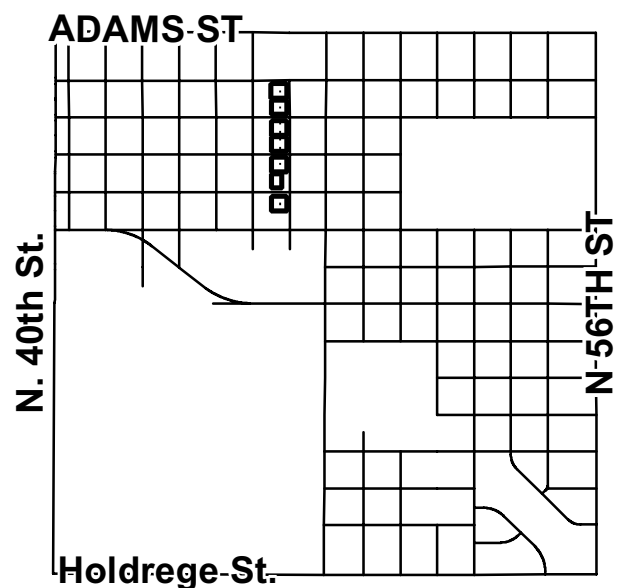
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 17 T10N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



# Memo

**To:** Greg Czaplewski, Planning Department  
**From:** Wynn Hjermstad, Manager, Community Development Division  
**Date:** 6/17/05  
**Subject:** Change of Zone 05044, University Place

The Urban Development Department supports the request of the University Place Association to change zoning from B-3 to R-4 Residential, in the area generally located on the west side of 47<sup>th</sup> Street, between Cleveland and Baldwin.

This down zoning request is consistent with the zoning modifications identified in the neighborhood development and land use section of the North 48<sup>th</sup> Street - University Place Plan.

It is our view that the proposed zoning change will aid in the development of a stable residential environment, and offer greater safeguards to homeowners in this area.

Please forward my comments to the City Council for their consideration. If you have questions or would like to discuss this issue further, please contact me at 441-8211. Thank you for the opportunity to comment.